

# Union Calendar No. 202

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 3729

[Report No. 109–371]

To provide emergency authority to delay or toll judicial proceedings in United States district and circuit courts.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 13, 2005

Mr. SENSENBRENNER introduced the following bill; which was referred to the Committee on the Judiciary

FEBRUARY 8, 2006

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on September 13, 2005]

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## A BILL

To provide emergency authority to delay or toll judicial proceedings in United States district and circuit courts.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       *This Act may be cited as the “Federal Judiciary*  
5       *Emergency Tolling Act of 2005”.*

1 **SEC. 2. EMERGENCY AUTHORITY TO DELAY OR TOLL JUDI-**  
2 **CIAL PROCEEDINGS.**

3 (a) *IN GENERAL.*—Chapter 111 of title 28, United  
4 States Code, is amended by adding at the end the following:

5 **“§ 1660. Emergency authority to delay or toll judicial**  
6 **deadlines**

7 “(a) *TOLLING IN DISTRICT COURTS.*—

8 “(1) *IN GENERAL.*—In the event of a natural  
9 disaster or other emergency situation requiring the  
10 closure of courts or rendering it impracticable for the  
11 United States Government or a class of litigants to  
12 comply with deadlines imposed by any Federal or  
13 State law or rule that applies in the courts of the  
14 United States, the chief judge of a district court that  
15 has been affected may exercise emergency authority in  
16 accordance with this section.

17 “(2) *SCOPE OF AUTHORITY.*—(A) The chief judge  
18 may enter such order or orders as may be appropriate  
19 to delay, toll, or otherwise grant relief from the time  
20 deadlines imposed by otherwise applicable laws or  
21 rules for such period as may be appropriate for any  
22 class of cases pending or thereafter filed in the district  
23 court or bankruptcy court of the district.

24 “(B) Except as provided in subparagraph (C),  
25 the authority conferred by this section extends to all  
26 laws and rules affecting criminal and juvenile pro-

ceedings (including, prearrest, post-arrest, pretrial, trial, and post-trial procedures), civil actions, bankruptcy proceedings, and the time for filing and perfecting an appeal.

“(C) The authority conferred by this section does not include the authority to extend—

“(i) any statute of limitation for a criminal action; or

“(ii) any statute of limitation for a civil action, if—

“(I) the claim arises under the laws of a State; and

“(II) extending the limitations period would be inconsistent with the governing State law.

“(3) *UNAVAILABILITY OF CHIEF JUDGE.*—If the chief judge of the district is unavailable, the authority conferred by this section may be exercised by the district judge in regular active service who is senior in commission or, if no such judge is available, by the chief judge of the circuit that includes the district.

“(4) *HABEAS CORPUS UNAFFECTED.*—Nothing in this section shall be construed to authorize suspension of the writ of habeas corpus.

1       “(b) *CRIMINAL CASES.*—*In exercising the authority*  
2 *under subsection (a) for criminal cases, the court shall con-*  
3 *sider the ability of the United States Government to inves-*  
4 *tigate, litigate, and process defendants during and after the*  
5 *emergency situation, as well as the ability of criminal de-*  
6 *fendants as a class to prepare their defenses.*

7       “(c) *TOLLING IN COURTS OF APPEALS.*—

8               “(1) *IN GENERAL.*—*In the event of a natural*  
9 *disaster or other emergency situation requiring the*  
10 *closure of courts or rendering it impracticable for the*  
11 *United States Government or a class of litigants to*  
12 *comply with deadlines imposed by any federal or*  
13 *States law or rule that applies in the courts of the*  
14 *United States, the chief judge of a court of appeals*  
15 *that has been affected or that includes a district court*  
16 *so affected may exercise emergency authority in ac-*  
17 *cordance with this section.*

18               “(2) *SCOPE OF AUTHORITY.*—*The chief judge*  
19 *may enter such order or orders as may be appropriate*  
20 *to delay, toll, or otherwise grant relief from the time*  
21 *deadlines imposed by otherwise applicable laws or*  
22 *rules for such period as may be appropriate for any*  
23 *class of cases pending in the court of appeals.*

24               “(3) *UNAVAILABILITY OF CHIEF JUDGE.*—*If the*  
25 *chief judge of the circuit is unavailable, the authority*

1       *conferred by this section may be exercised by the cir-*  
2       *cuit judge in regular active service who is senior in*  
3       *commission.*

4               “(4) *HABEAS CORPUS UNAFFECTED.*—*Nothing in*  
5       *this section shall be construed to authorize suspension*  
6       *of the writ of habeas corpus.*

7               “(d) *ISSUANCE OF ORDERS.*—*The Attorney General or*  
8       *the Attorney General’s designee may request issuance of an*  
9       *order under this section, or the chief judge of a district or*  
10       *of a circuit may act on his or her own motion.*

11              “(e) *DURATION OF ORDERS.*—*An order entered under*  
12       *this section may not toll or extend a time deadline for a*  
13       *period of more than 14 days, except that, if the chief judge*  
14       *(whether of a district or of a circuit) determines that an*  
15       *emergency situation requires additional extensions of the*  
16       *period during which deadlines are tolled or extended, the*  
17       *chief judge may, with the consent of the judicial council*  
18       *of the circuit, enter additional orders under this section in*  
19       *order to further toll or extend such time deadline.*

20              “(f) *NOTICE.*—*A court issuing an order under this sec-*  
21       *tion—*

22                      “(1) *shall make all reasonable efforts to publicize*  
23       *the order, including announcing the order on the web*  
24       *sites of all affected courts and the web site of the Fed-*  
25       *eral judiciary; and*

1           “(2) shall, through the Director of the Adminis-  
 2           trative Office of the United States Courts, send notice  
 3           of the order, including the reasons for the issuance of  
 4           the order, to the Committee on the Judiciary of the  
 5           Senate and the Committee on the Judiciary of the  
 6           House of Representatives.

7           “(g) *REQUIRED REPORTS.*—A court issuing one or  
 8           more orders under this section relating to an emergency sit-  
 9           uation shall, not later than 180 days after the date on which  
 10          the last extension or tolling of a time period made by the  
 11          order or orders ends, submit a brief report to the Committee  
 12          on the Judiciary of the Senate, the Committee on the Judi-  
 13          ciary of the House of Representatives, and the Judicial Con-  
 14          ference of the United States describing the orders, includ-  
 15          ing—

16                 “(1) the reasons for issuing the orders;

17                 “(2) the duration of the orders;

18                 “(3) the effects of the orders on litigants; and

19                 “(4) the costs to the judiciary resulting from the  
 20          orders.

21           “(h) *EXCEPTIONS.*—The notice under subsection (f)(2)  
 22          and the report under subsection (g) are not required in the  
 23          case of an order that tolls or extends a time deadline for  
 24          a period of less than 14 days.”.

1       (b) *CLERICAL AMENDMENT.—The table of sections at*  
2 *the beginning of chapter 111 of title 28, United States Code,*  
3 *is amended by adding at the end the following new item:*

*“1660. Emergency authority to delay or toll judicial deadlines.”.*

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